

DEPARTMENT OF THE ARMY
HEADQUARTERS, FIFTH U.S. ARMY AND FORT SAM HOUSTON
FORT SAM HOUSTON, TX 78234-5000

FSH Regulation
No. 715-1

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Contracting
FORT SAM HOUSTON ACQUISITION INSTRUCTIONS

Issue of further supplements of this regulation by subordinate commanders is prohibited unless specifically approved by Headquarters, U.S. Army Garrison, Fort Sam Houston.

The pronouns he, his, and him, when used in this regulation, are intended to include both the masculine and feminine genders. Any exceptions to this will be so noted.

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*This regulation supersedes FSH Reg 715-1, 1 October 1978.

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CHAPTER 1

GENERAL

1-1. PURPOSE. To implement policies and objectives, assign responsibilities and provide guidance in accordance with the Federal Acquisition Regulation (FAR), the DOD FAR Supplement (DFARS), the Army FAR Supplement (AFARS) and FORSCOM Regulation 715-1, (FORSCOM Acquisition Instructions (FAI)) for the acquisition of supplies and/or services at Headquarters, U.S. Army Garrison, Fort Sam Houston (HQ, USAG FSH).

1-2. APPLICABILITY. This regulation applies to all units and activities receiving contracting support from the Directorate of Contracting, USAG FSH.

1-3. DEFINITIONS.

a. Acquisition. Acquiring by contract, with appropriated funds, supplies or services for use by the federal government through purchase or lease. Acquisition begins at the point when needs are established and includes the description of requirements to satisfy needs, solicitation and selection of sources, award of contract, contract financing, contract performance and administration, and those technical and management functions directly related to the process of fulfilling needs by contract.

b. Advanced Acquisition Planning. Advanced Acquisition Planning (AAP) is a coordinated program for coordinating the overall annual acquisition effort for USAG FSH and supported tenant activities.

c. Contract. A mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and are, except as authorized, in writing.

d. Contracting. Purchasing, renting, leasing, or otherwise obtaining supplies and services from nonfederal sources. Contracting includes description of supplies and services required, solicitation and selection of sources, preparation and award of contract, and all phases of contract administration.

e. Contracting Officer. A person with the authority to enter into, administer, and terminate contracts and make related determinations and findings.

f. Delivery Order. An order for supplies or services placed against an established contract or with government sources of supply.

g. Imprest Fund. A cash fund of a fixed amount, without charge to an appropriation from a finance or disbursing officer, for disbursement as needed in making payment for relatively small purchases.

h. Purchase Order. An offer by the government to buy supplies or services from commercial sources under specified terms and conditions, using small purchase procedures.

i. Small Purchase. An acquisition of supplies or services in the amount of \$25,000 or less.

j. Nonappropriated Funds (NAFs). Nonappropriated funds are cash and other assets received by nonappropriated fund instrumentalities from sources other than moneys appropriated by Congress. NAFs are used for the collective benefits of military personnel, their family members, and authorized civilians.

k. Nonappropriated Fund Instrumentality (NAFI). An integral DOD organizational entity which performs an essential government function. It acts in its own name to provide or assist other DOD organizations in providing morale support for military personnel and authorized civilians.

l. Statements of work/specifications are technical requirements for supplies or services that include the criteria for determining whether requirements are met.

RESPONSIBILITIES.

a. Director of Contracting.

(1) Plans, directs and supervises purchasing and contracting for supplies and services for the installation and supported units/activities.

(2) Serves as the principal advisor to the commander all contractual matters.

(3) Reviews contractual actions to assure compliance with all federal statutes and Department of Defense and Army Regulations.

(4) Assures that opportunities for competition are not lost by the use of overly restrictive requirement statements, unnecessarily vague or overly detailed specifications or statements of work, inadequate or untimely procurement planning and preparation, or by any arbitrary action.

(5) Prepares and distributes contracting documents.

b. Staff Judge Advocate.

(1) Fully participates in the entire acquisition process, including acquisition planning through contract completion or termination and closeout.

(2) Participates as a member of the contracting officer's team for acquisitions expected to result in a contract of \$50,000 or more and is responsible for advising as to the legal sufficiency of actions taken by the team.

(3) Reviews all acquisitions expected to result in a contract of less than \$50,000 for legal sufficiency to the maximum extent, consistent with the availability of legal counsel.

(4) Reviews Justifications and Approvals for use of other than full and open competitive procedures relating to actions of \$25,000 or more.

(5) Informs the contracting officer in writing whether proposed actions are legally sufficient or the details of any insufficiency and a recommended course of action to overcome the insufficiency.

c. Finance and Accounting Officer, Directorate of Resource Management.

(1) Makes timely payment for all purchase/delivery orders and contracts entered into by contracting officers. As a prerequisite to payment, the finance and accounting officer must be furnished documentation which will serve as evidence that a legal disbursement of funds should be made.

(2) Prepares Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal, or a similar form certifying that the voucher is correct and proper for payment.

(3) Informs the contracting officer when supporting documentation is not received in a timely manner.

(4) Furnishes the contracting officer with one copy of the payment voucher or other documentation showing payments.

d. Directorate of Engineering and Housing.

(1) The Directorate of Engineering and Housing has staff responsibility for utilization of facilities and for assignment of buildings, structures and/or storage areas for the installation in accordance with Army criteria.

(2) All activities requesting a contract that involves the connection to or utilization of installation facilities and utilities are required to coordinate their request with DEH prior to submittal to DOC for processing. A copy of the approved work order or other applicable approval document will be furnished to DOC with the purchase request.

e. Supported Units/Activities.

(1) Identify need for supplies and services well in advance to ensure timely and competitive procurement. [An advanced acquisition planning program is in effect and provides guidance (page 3-1).]

(2) Certify that sufficient funds are available for the acquisition of the required supplies and services.

(3) Prepare and submit to DOC purchase requests for required supplies and services. (Refer to FSH Reg 700-1, paragraphs 3-7 and 3-8, for guidance on processing priority requests. Copies of the authentications will be furnished to DOC when priorities two through six are cited on purchase requests.)

(4) Prepare statements of work/specifications and evaluation criteria with sufficient detail to ensure that required supplies or services are procured. (For negotiated acquisitions, the evaluation criteria will be supported by numeric weights in their relative order of importance.)

(5) Conduct evaluations on technical requirements in response to the solicitations, and assist in administering the contract.

(6) Test, inspect, and accept supplies (including equipment) or services as required.

(7) Distribute the contracting documents (DD Form 1155 or other appropriate forms) to all action offices within the activity; i.e., property book officer (PBO), budget, contracting officer's representative (COR), warehouse, etc. Reproduce documents as required to ensure sufficient copies.

(8) Provide the servicing finance and accounting office with two copies and the Directorate of Contracting with one copy of a completed receiving report after supplies and services have been received and accepted.

(a) DD Form 1155. Provide two copies of a receiving report annotated on DD Form 1155 to the finance and accounting office only, unless the purchase or delivery order specifically indicates that the Directorate of Contracting requires a copy, also.

(b) DD Form 250. Provide two copies of a receiving report annotated on DD Form 250 to the finance and accounting office and one copy to the Directorate of Contracting.

STANDARDS OF CONDUCT.

a. Unauthorized release of acquisition information: Department of the Army (DA) personnel are prohibited from releasing to an individual or to a business concern or its representative any information concerning proposed acquisitions or purchases by a contracting activity of DA. Such information will be released to all potential contractors as simultaneously as possible. These releases will be made only through duly designated agencies, so that one potential source of supply may not be given an advantage over another.

b. Unauthorized statements or commitments with respect to award of contracts: Only contracting officers acting within the scope of their authority, as specified in the certificate of appointment, may enter into contracts on behalf of the government. Technical personnel and others, whose duties may require contact and discussions with suppliers and contractors, have no authority to obligate or commit the government contractually, and shall not authorize purchases or direct changes in work under contracts which may change the contractual terms thereof or result in claims against the government. (See paragraph 1-6c for vendor demonstrations.) Unauthorized discussion or commitment may place DA in a position of not acting in good faith. Unauthorized personnel are prohibited from making any commitment or promise relating to award of contracts and will make no representation that can be construed as a commitment.

c. Contracting officers are not authorized to execute contractual documents for after-the-fact purchase actions.

d. See AR 600-50, chapter 2, for additional information regarding actual or apparent conflicts of interest; using "inside information"; dealing with present or former military or civilian personnel; and guidance on accepting gratuities, reimbursements and other benefits from outside sources.

CONTRACTING/PURCHASING AUTHORITY.

a. Contracting officers assigned within DOC have the authority to execute and administer contracts for supplies and services for Headquarters, U.S. Army Garrison, Fort Sam Houston and supported activities.

b. Requiring activity personnel will neither enter into negotiations with prospective contractors or vendors nor commit the government for any supplies or services in advance of a formal contract or order being signed by a contracting officer.

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Purchase or rental of new equipment will be authorized only when a specific need has been validated and all regulatory and directive provisions have been met. For example: procurement of automated data processing equipment (ADPE) requires approval in accordance with AR 25-1, AR 25-5, etc.

c. Requiring activity personnel will coordinate with the appropriate personnel within the Purchasing Div, DOC, for any on-site vendor demonstration of equipment to avoid any possible impropriety or preference. Requests for vendor demonstrations will be coordinated with the appropriate technical staff and property book officers prior to being forwarded to DOC for approval and coordination. All capable, available, and interested vendors will be given equal opportunity to concurrently demonstrate their equipment and compete under any resultant acquisition. (See paragraph 2-15 for equipment loan agreements.)

CHAPTER 2

ACQUISITION PROCEDURES

2-1. GENERAL. The authority and responsibility to contract with commercial vendors for supplies and services for HQ, USAG FSH and its supported tenant activities are vested in DOC. Contracts may be entered into and signed on behalf of the government only by a duly appointed contracting officer. This chapter lists duties and responsibilities of individuals involved in the acquisition process and information and documentation required for acquisition.

2-2. CONTRACTING OFFICER

a. Contracting officers are appointed in writing on an SF 1402 (Certificate of Appointment), which states any limitations on the scope of authority to be exercised. Contracting officers are responsible for ensuring performance of all actions necessary for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interest of the United States Government in its contractual relationship. Contracting officers will:

(1) Ensure that all requirements of the law, executive orders, regulations and all other applicable procedures, including clearances and approvals, have been met.

(2) Ensure that sufficient funds are available for obligation.

(3) Ensure that contractors receive impartial, fair and equitable treatment.

(4) Request and consider the advice of specialists in audit, engineering, and other fields, as appropriate.

b. Contracting officers are authorized to enter into and administer contracts for supplies or services on behalf of the government. Only contracting officers and their respective buyers, contract specialists, or contract administrators assigned to the DOC are authorized to contact potential suppliers to conduct negotiations.

CONTRACTING OFFICER'S REPRESENTATIVE (COR).

a. The contracting officer may appoint any government employee, military or civilian, to act as the authorized COR in administering a contract. In selecting the COR, the contracting officer shall ensure that the individual possesses qualifications and experience commensurate with the authority being delegated.

Requesting activities will nominate and the contracting officer will appoint a COR for each service/maintenance contract which has a performance period of more than 60 calendar days. CORs also will be appointed for each supply contract which requires multiple deliveries over an extended period of more than 60 days.

b. The COR is designated to represent the contracting officer when the contracting officer cannot physically be present at the scene. COR designations are in writing and clearly define the limits of the COR's authority. CORs are primarily liaisons between the contractor and the contracting officer and have no authority other than that which has been delegated to them by the contracting officer. The expertise of the COR must be sufficient to efficiently monitor contractor performance. CORs for contracts over \$25,000 are required to successfully complete a formal COR course prior to being appointed. (In exceptional cases, the Director, DOC, may temporarily waive the formal COR training requirement.) The contracting officials will conduct and all CORs will attend an orientation session prior to the beginning of contract performance.

c. The COR provides assistance to the contracting officer in the following technical areas:

(1) Verifies that the contractor has performed the applicable technical management and quality control requirements of the contract IAW the contract terms, conditions and specifications.

(2) Performs all necessary inspections. Inspections may be performed by either the appointed COR or fully qualified technical or quality assurance personnel approved by the contracting officer. Individuals designated as inspectors for CORs for contracts will attend the orientation sessions required by paragraph 2-3b, above.

(3) Verifies that the contractor has corrected all correctable deficiencies.

(4) Maintains liaison and direct communications with both the contractor and contracting officer.

(5) Monitors the contractor's performance, notifies the contracting officer of deficiencies observed during surveillance and recommends appropriate corrective action.

(6) Prepares and submits, as required, a report concerning contractor performance under the contract.

(7) Accepts the supplies or services furnished by the contractor on behalf of the government, utilizing a DD Form 250.

(8) Transfers all selected COR records (including inspection documents) to the contracting officer upon completion of contract performance for contract closure.

2-4. GOVERNMENT PROPERTY

a. Property Book Officer (PBO). PBOs are the primary points of contact (POC) between the DOC and the respective requiring activities. Responsible commanders/senior management officials may appoint other individuals as their POC if such appointments are necessary for efficient mission accomplishment. Such exceptional designations should be kept to a minimum, and DOC must be notified in writing. PBO/POC will work closely with DOC representatives to:

(1) Help control/reduce unwarranted high priority purchase requests. DOC's goal for processing high priority purchase requests (priorities two through six) for supplies costing less than \$10,000 is seven calendar days (see paragraph 3-2b). Since high priority purchase requests must be processed ahead of other on-hand customer requirements, all priority requests must be supported by written justification.

(2) Screen/edit purchase requests and provide the information required on purchase requests in accordance with paragraph 2-5, below.

(3) Furnish acquisition status information, when necessary, to the respective requirements personnel.

(4) Provide input/recommendations to DOC and requiring activity representatives on ways and means of enhancing the overall contracting program support for USAG FSH and supported activities.

b. Property Administrator.

(1) The government may elect, under the terms of the contracts, to either furnish certain property from its inventories or require the contractor to acquire or provide certain property for performance under the contract, to which the government has title. In either case, the property is government property, and the contracting officer may appoint a property administrator.

(2) The selection, appointment and determination of appointment of the property administrator must be made in writing. Functions of the property administrator include:

(a) Assisting the contracting officer in evaluating how, when, or if the government should replace or add property to a contract.

(b) Obtaining a written statement from the contractor reporting incidents of loss, damage, destruction, or unreasonable consumption of government property.

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(c) Analyzing the contract provisions and facts involving the loss, damage destruction, or unreasonable consumption of government property to determine if the contractor is responsible.

(d) Making recommendations to the contracting officer after completion of analysis concerning contractor's liability.

(e) Evaluating, approving, and auditing the contractor's property control system, as necessary, to validate the condition and location of the government-furnished property.

(f) Developing plan for overseeing the administration of government-furnished property in the possession of the contractor.

(g) Maintaining property control data files.

2-5. PURCHASE REQUEST (PR).

a. Activities having requirements for supplies, equipment, or services, using local purchase authority, will complete and submit the appropriate purchase request form, as listed in Table 1, to the DOC for acquisition action.

b. The purchase request provides a means by which the responsible officials can certify the availability of funds, correctness of accounting classification data, authority to use local purchase procedures for the acquisition, and describe/define the essential salient characteristics and functions required to meet the government's minimum needs.

c. All requests for local purchase of supplies and services using appropriated funds will be submitted on DA Form 3953, Purchase Request and Commitment; DD Form 1348-6, Non NSN Requisition; or DA Form 5289-R, Traveling Purchase Requests, as outlined in Table 1.

d. The purchase request will be completed to show in appropriate spaces:

Requisition number and date.

(2) Explanation for necessity of local procurement and regulatory authorization.

(3) A complete description of supplies or services required, item name, estimated cost, manufacturer's name, and, when appropriate, applicable specifications. Requesting activities may also recommend a source of supply for the item. (See paragraph 1-5.)

(4) A specific Required Delivery Date (RDD). This date will give the contracting officer a precise target date for the requirement. If required, the contracting office may issue contractual documents which provide for delivery up to 30 days beyond the specified date, unless the purchase request and commitment limits such actions.

(5) Signature and titles of initiating official and authorizing/approving official. The initiating official and approving official will not be the same individual.

(6) Funds authorized for use and approval of the funds use.

e. After preparation by the requesting activity, purchase requests for supplies and equipment must be routed through the authorized approval chain to the appropriate supply support activity.

2-6. STATEMENT OF WORK/SPECIFICATIONS.

a. Statements of work/specifications will state only the actual minimum needs and will be written to promote full and open competition. Specifications will be stated in terms of:

(1) Function, so that a variety of products or services may qualify.

(2) Performance, including specifications of the range of acceptable characteristics or minimum acceptable standards.

b. Selecting SOW/Specifications for use.

(1) Plans, drawings, specifications or standards will only state the actual minimum needs. Items will be described by listing applicable specifications and standards or by a description containing necessary requirements.

(2) Specifications and standards will be selectively applied and tailored in their application. Selective application involves reviewing and selecting from available specifications, standards or available documents that have application to a particular acquisition. Tailoring is the process by which individual sections, paragraphs or sentences of the selected specification is reviewed and modified so that each one selected states only minimum requirements.

(3) A purchase description may be used in lieu of or in addition to specifications. Purchase descriptions must list the essential physical and functional characteristics of the supplies or services required. As many of the following characteristics as necessary to express minimum requirements should be used in preparing a purchase description:

Common nomenclature.

(b) Kind of material, i.e., type, grade, alternatives.

Electrical data, if any.

Dimensions, size, capacity.

Principles of operation.

Restrictive environmental conditions

(g) Intended use (essential operating condition).

Equipment with which the item is to be used.

(i) Other pertinent information that further describes the item or service required.

c. Specifications not meeting requirements listed above will be returned to the initiating activity. Returned specifications/SOWs should be revised and returned to the DOC as quickly as possible to preclude unnecessary delay in the acquisition of the supply or service required.

d. "Brand name or equal" purchase descriptions may be used to identify commercial items. This type of description must identify the manufacturer of the referenced product, the applicable model number, followed by the words "or equal." A list or description of the salient physical and functional characteristics found in the referenced item, which are essential to the needs of the government, must also be provided. Requests which merely identify a single make and model number and do not include a description of salient characteristics or a sole source justification are unacceptable. Multiple brand name designations should be supplied when more than one product will meet the government's needs.

e. Certain items (component part, no substitute) may be purchased without substitution in cases where the items have particular features which are peculiar to one manufacturer and necessarily preclude consideration of a product manufactured by another company. Accordingly, the contracting officer may determine that the particular features are essential to the government's minimum requirements and other companies' similar products, which lack the particular features, would not meet the minimum requirements of the item, and purchase the requested item without substitution. In all such cases, the requesting activity must furnish to the contracting officer written documentation justifying the purchase without substitution. The component part (no substitute) approach will not be used as a means of avoiding the statutory and regulatory requirement for full and open competition. Items

approved by the contracting officer for purchase without substitution will be screened for the feasibility of competition among competing companies.

SOLE SOURCE ACQUISITION

a. Sole source acquisition is contracting for the purchase of supplies or services that is entered into, or proposed to be entered into, after soliciting a bid or offer from only one source.

b. Sole source acquisitions may be appropriate where it can be positively determined that only one source, firm or manufacturer has the capability to satisfy the government's minimum needs. Requests for supplies or services from a single supplier must be accompanied by complete written documentation justifying the request. Justification must identify the essential characteristics/features found only in the requested item and must clearly establish the government's need for these particular characteristics. It is the responsibility of the contracting officer to determine if an item will be purchased on a noncompetitive basis. Information provided by the requester must be sufficiently detailed to permit the contracting officer to render a valid, fully justified decision. (See paragraph 3-3 for emergency/priority requirements.)

c. Organizations submitting requests for sole source or limited source acquisitions will provide valid supporting documentation and certify that all information submitted to support their request is accurate and correct. Also, all requests will state all actions taken or recommendations to preclude/prevent a sole source or limited source situation in future acquisitions.

d. All requests for sole source actions require review and approval by the contracting officer and Installation Competition Advocate (Director of Contracting) prior to acquisition. Invalid sole source requests will be rejected. The contracting officer will work closely with the requesting activity in an effort to secure adequate competition for the rejected sole source requests.

FUNDING

a. No officer or employee of the government will make or authorize an expenditure in excess of funds available, in advance of appropriations, or in excess of appointment. Before executing any contract, the contracting officer will:

(1) Obtain written assurance from the requesting activity that adequate funds are available. This requirement will be satisfied by receipt of the purchase request signed by the appropriate official certifying the availability of funds.

(2) Ensure DA Form 3953 is approved by the responsible commander/program manager, unless such approval authority has been redelegated in writing to a lower level position within the respective activity. Current copies of such delegations will be forwarded and retained on file in the DOC.

b. Fiscal year contracts: Contracting actions chargeable to funds of a new fiscal year may be initiated before funds are available, if appropriate. This action will be used only for operation and maintenance and continuing services necessary for normal operations.

2-9. SMALL PURCHASES

a. Small purchases are acquisitions of supplies and services in the amount of \$25,000 or less. Such purchases will be distributed equitably among qualified suppliers. If practical, a quotation will be solicited from other than the previous supplier before placing a repeat order. Competition will be promoted to the maximum extent practical to ensure that the purchase is advantageous to the government.

b. Activities requesting small purchases will prepare the appropriate purchase request, DA Form 3953 or DD Form 1348-6, and forward through proper channels to the Directorate of Contracting. Activities may recommend available sources of the supplies or services requested.

2-10. DISTRIBUTION OF CONTRACTING DOCUMENTS. The distribution of contracting documents, including small purchases, is a crucial step in the acquisition process. Each purchase/delivery order is produced in 10 copies only. Initial distribution of small purchase documents (includes modifications) is made by the DOC as shown below. USAG FSH and supported tenant activities receiving copies of the DD Forms 1155 will establish procedures to ensure further internal distribution by either the designated property book, budget officer, or receiving warehouse, as appropriate, to the offices and officials responsible for their processing. They will also ensure that receiving reports are appropriately provided, as detailed in paragraph 1-4e(8), after supplies or services are received.

LEGEND:

File - Directorate of Contracting File

FAO - Designated Paying Finance and Accounting Office

DCFS - Data Conversion and Files Section (Supply and Services Div, DOL)

TISA - Troop Issue Subsistence Activity

WHSE - Consolidated Property Warehouse, bldg 4189

LEGEND: (CONT)

ACTY - Designated Requiring Customer Activity Budget Office.

PBO - Designated Requiring Property Book Officer.

MEDCASE - MEDCASE Budget Manager.

a. For acquisitions of supplies using stock funds (21X) which require delivery to the WHSE:

Original plus two copies

One copy - vendor

One copy - file

One copy - DCFS

One copy - PBO

Three copies - WHSE

b. For acquisitions of supplies using stock funds (21X) which require direct delivery to the customer:

Original plus two copies

One copy - vendor

One copy - file

One copy - PBO

Four copies - DCFS

c. For acquisitions of supplies using stock fund bypass (MEDCASE/OMA) which require delivery to the WHSE:

Original plus two copies - FAO

One copy - vendor

One copy - file

One copy - ACTY

One copy - PBO

Three copies - WHSE

d. For acquisitions of supplies using stock fund (MEDCASE or Other) bypass which require direct delivery to the customer (also applies to MEPS, NAF, ROTC, etc.):

Original plus two copies - FAO

One copy - vendor

One copy - file

Four copies - MEDCASE

One copy

e. For acquisitions using stock fund which require direct delivery (also referred to as bypass) to the customer when advance payment is authorized (example - approved subscriptions):

Original plus four copies - FAO

Vendor - none - FAO forwards a copy along with the advance payment.

One copy - file

Three copies - ACTY

One copy - PBO

f. For using acquisitions TISA bulk fund which require direct delivery to the TISA warehouse, bldg 4015, or other specifically designated TISA delivery points:

Original plus two copies - FAO

One copy - vendor

One copy

One copy - ACTY

Three copies - TISA

One copy

g. For all acquisitions of services using bypass funds for services (includes OMA, OMAR, NAF, etc.) which require direct delivery (performance) to the requiring customer activity:

Original plus two copies - FAO

One copy - vendor

One copy - file

Four copies - ACTY

One copy - PBO

2-11. INSPECTION AND ACCEPTANCE OF SUPPLIES AND SERVICES.

a. Inspection. Each government contract requires the contractor to perform all inspections and tests necessary to substantiate that the supplies or services furnished conform to the contract requirements. Nevertheless, the contracting officer or his designated representative will also perform such inspections and tests, as necessary, to assure that the contractor has performed in accordance with the contract terms and conditions. Normally, such inspections follow delivery, but precedes acceptance of the supplies or services.

b. Acceptance of supplies or services is also the responsibility of the contracting officer or the designated representative of the contracting officer. Acceptance is binding on the government. Acceptance constitutes acknowledgment that supplies or services received conform with applicable contract quality and quantity requirements. Acceptance may take place before delivery, at the time of delivery, or after delivery, depending on the provisions stated in the contract. Supplies or services will normally not be accepted until after completion of quality assurance actions. (Contact the contracting officer in cases of suspected latent defects.) Acceptance will be evidenced by execution of an acceptance certificate on DD Form 250, Material Inspection and Receiving Report, or commercial shipping document/packing list. Once completed, these documents will be forwarded to the finance and accounting office for payment with copies to the Directorate of Contracting for contract administration.

2-12. DISCREPANCIES, DELAYS AND NON-RECEIPT OF SUPPLIES AND SERVICES.

a. Supplies and services not conforming in all aspects to contract requirements will be rejected. Contractors will be given the opportunity to correct any discrepancy or replace nonconforming supplies or services when this can be accomplished by the required delivery schedule. Unless the

contract specifies otherwise, corrections or replacements will be without additional cost to the government.

b. There are circumstances, however, (e.g. reasons of economy or urgency) when nonconforming supplies or services may be accepted. The determination of whether to make acceptance is based on:

(1) Advice of the requesting activity that the material is safe and will perform its intended purpose.

(2) Information regarding the nature and extent of the nonconformance.

(3) A recommendation for acceptance or rejection with supporting rationale.

(4) The contract adjustments considered appropriate, including any adjustments offered by the contractor.

c. The designated receiving activity (warehouse, in the case of supplies, and requesting activity POC or COR, in the case of services) will furnish to the contracting officer, in writing, a discrepancy, delay, or nonreceipt of supplies and services. The contract number, details of the discrepancy, and desired corrective actions must be shown. The requesting activity is responsible for promptly notifying the contracting officer within six workdays when supplies and services are not received by the required delivery date.

d. In case of an emergency, the receiving activity will notify the contracting officer by telephone followed by written notification.

e. The contracting officer will promptly follow up with the vendor involved to determine the reasons for the discrepancy or delay.

2-13. WARRANTIES.

a. Warranties guarantee or promise to correct defective supplies and services contracted for. In order for warranties to be enforced, customers must be aware of any warranty that may apply. The contracting officer will ensure that each customer is informed of all warranty terms and conditions.

b. In the event that supplies or services contracted for are found to be defective, the customer will notify the contracting officer of the problem. The contracting officer will, in turn, notify the contractor and assure corrective action.

2-14. PROMPT PAYMENT OF BILLS AND ACCOUNTS

a. It is the policy of Department of the Army to pay all accounts as they become due and payable. Finance and accounting officers will not pay accounts until due. The due date will be entered on the payment voucher. Payment will be as close as possible to the due date, based on receipt of proper invoices and receiving reports certifying satisfactory performance of contract terms. When the finance and accounting officer fails to receive proper documentation and make payments on time, interest penalties may be due to the contractor.

b. The Prompt Payment Act of 1982 requires Federal agencies to pay their bills on time, to pay interest penalties when payments are made late, and to take discounts when payments are made within the discount period. This act is designed to result in timely payments, better business relationship with suppliers, improved competition for government business, and reduced cost for supplies and services.

c. The timely and accurate processing of receiving reports is a command/management responsibility. To ensure prompt payment for contracts and purchases and to take advantage of discounts, receiving reports must be completed and forwarded to the finance and accounting office within five working days after receipt of supplies or completion of services. The actual date of receipt or completion will be indicated on the receiving report. Activities responsible for late payment of proper invoices will be charged the resultant interest penalty.

2-15. EQUIPMENT LOAN AGREEMENTS.

Units/Activities will not enter into loan agreements with any vendor. All vendor offers to loan equipment to the government will be forwarded to the DOC for appropriate review. (Also, see paragraph 1-6c for vendor demonstrations.

2-16. ACQUISITIONS USING NONAPPROPRIATED FUNDS.

a. The Directorate of Contracting will provide contracting support for the purpose of soliciting bids and proposals and awarding and administering nonappropriated fund contracts for concessionaire contracts and acquisition actions in excess of \$25,000 for supplies and services, except those items which are covered by GSA or DA NAF contracts.

b. Acquisitions using nonappropriated funds (NAF) will be accomplished primarily through competitive negotiations. Competition will be obtained from a reasonable number of sources, unless sole source negotiation is necessary and justified as determined by the approving authority or as may be required by law.

c. When procurement is accomplished by negotiation, proposals will be solicited from the maximum number of qualified sources to ensure that the acquisition will be made to the best advantage of the fund, price and other factors considered.

d. Goods or services procured by concession contracts involving sales to Armed Forces personnel and payment of concession fees to the NAFI will be accomplished by competitive negotiation. Solicitations will specify the goods or services to be supplied and either the selling price or the concession fee. Services of sports professionals (e.g., golf, tennis) may be obtained by service concessionaire contract. Because teaching qualifications of sports professionals may vary and these qualifications may be of greater significance to the NAFI than the price/fee considerations, negotiations of service/concessionaire contracts with sport professionals may be conducted on a sole source or limited source basis provided that:

(1) It is clearly demonstrated and documented that professional competence, such as teaching ability, past accomplishments, technical expertise, etc., is of greater importance than price/fee consideration;

(2) There are a limited number of individuals reasonably available whose professional qualifications are clearly superior to those other persons who might otherwise respond to a solicitation; and,

(3) The installation commander's written approval is obtained prior to solicitation.

e. DA Form 4065-R, Army NAF Purchase Request, will be used for all purchases using NAFs. The DA Form 4065-R will be completed by the requesting activity and approved at authorized levels before submission to DOC for action.

f. The requesting activity will determine which supplies or services are required and clearly define the specifications of the desired supplies or services on the purchase request. When technical specifications are required, assistance may be obtained from the DOC.

g. Requests for procurement actions will be forwarded to the DOC in sufficient time to allow for normal lead time, production, if necessary, and delivery of supplies or services by the required delivery date.

h. It is the responsibility of the requesting activity to ensure that funds are certified and are available to make the purchase and the purchase request contains all the required approval signatures. Purchase requests will be returned to the requesting activity if all required approvals and signatures are not included.

2-17. UNAUTHORIZED COMMITMENTS (RATIFICATIONS).

a. Only a duly appointed contracting officer acting within the scope of his authority may enter into contracts on the behalf of the government. Any actions taken by personnel other than authorized contracting officers and their designated agents which could result in a commitment for supplies or services is an unauthorized commitment.

b. Unauthorized commitments can be a source of embarrassment to the government and could create malice on the part of vendors who provide supplies or services in good faith. This malice stems from the inability of the government to make timely payment because of the unauthorized nature of the purchase. Individuals making unauthorized commitments are subject to possible disciplinary action and may be held financially liable. Emergency acquisition procedures are in place at the DOC and should be followed for emergency requirements. (See paragraph 3-4c.)

c. When a commitment is made by other than an authorized contracting officer, payment cannot be made until the action is properly ratified.

d. The Director of Contracting may approve the ratification of an unauthorized commitment for amounts of \$2,500 or less after the determination that:

- (1) The government has obtained a benefit,
- (2) The authority could have been granted to enter into the commitment at the time it was made, and
- (3) The action would have been proper if a contracting officer had made the contract.

e. Unauthorized commitments between \$2,500 and \$25,000 will be approved by FORSCOM. The Garrison Commander will provide details telephonically to the Principal Assistant Responsible for Contracting, FORSCOM. A decision will be made at that time whether a face-to-face meeting is required between the Installation Commander and the Deputy Commanding General, FORSCOM.

f. Ratification procedures:

(1) USAG FSH and supported tenant activities will promptly report unauthorized commitments to DOC after they are identified.

(2) Upon learning that an unauthorized commitment has been made, the DOC will forward FORSCOM Form 121-R, Request for Approval of Unauthorized Commitments, through appropriate command channels to the unit/activity to be completed.

(3) The individual making the unauthorized commitment shall forward, to his immediate supervisor, documentation concerning the transaction, part I of FORSCOM Form 121-R.

(4) The immediate supervisor will complete item 6, part I, section A, and forward all information to the unit commander, director or activity chief.

(5) The unit commander, director or activity chief will complete part I, section B.

(6) If applicable, the commander of the tenant organization will complete part II.

(7) The completed FORSCOM Form 121-R, along with a completed DA Form 3953, Purchase Request and Commitment, DD Form 250, Receiving Report, and contractors invoice, will be returned through appropriate command channels to the DOC within the indicated number of working days after receipt.

(8) The DOC will assign a contracting officer who will complete parts III, IV and section B of part V of the FORSCOM Form 121-R. A legal opinion from the SJA, as to appropriate disposition of the action, will be obtained.

(9) The DOC will forward the completed forms to the Garrison Commander for concurrence/nonconcurrence, and return to the DOC for appropriate action.

g. The Garrison Commander will personally interview persons involved in unauthorized commitments. In situations dealing with tenant organizations, the Garrison Commander will discuss the unauthorized commitment with the senior commander

prior to approving the specific corrective actions contemplated and necessary to preclude future recurrence.

h. Commanders of tenant organizations or their designated representative will interview individuals within their command involved in unauthorized commitment.

2-18. ORDERING OFFICERS. Ordering officers may be appointed for the purpose of making over-the-counter purchases not exceeding \$2,500, using Standard Form 44, when it is determined by the Director of Contracting that such appointment is essential for the efficient operation of the contracting mission for FSH and supported activities. In these limited cases, the letter of appointment provides specific guidance on the ordering officer's scope of authority and responsibility.

CHAPTER 3

ACQUISITION PLANNING

3-1. ADVANCED ACQUISITION PLANNING (AAP)

a. Some degree of planning is required for every procurement action, including simplified purchases. However, advance acquisition planning (AAP) will be accomplished for all contracts over \$25,000. (Orders against intradepartmental contracts are excluded because the required planning was accomplished under the basic action.) The scope of such planning will vary with the complexity and dollar value of each requirement. AAP is a coordinated effort, from the preparation of the statement of work/specifications through completion, and considers all aspects of required acquisition approvals, budgeting, legal reviews, scheduling, performance time and evaluation techniques, etc. The basic objective is to achieve maximum competition in contracting, whenever feasible, through the development of solicitations and contracts which are expressed in concise, clear language, allowing sufficient time for bidders to prepare adequate bids/proposals, evaluation, award of contract and performance time. Mobilization contingency requirements will be included in AAP.

b. Advanced acquisition planning is done to ensure timely and competitive procurement. It is a command responsibility. Requiring activities must submit purchase requests sufficiently in advance of required delivery dates to allow the contracting officer enough time to develop and issue solicitation, evaluate bids or proposals, secure required reviews, and make awards. Each solicitation must allow prospective contractors enough time to prepare and send responses.

c. AAP Schedule. Each activity will prepare and submit to the DOC an annual advanced acquisition plan schedule no later than 1 July each year for the following fiscal year. Schedules may be updated, as required. Negative reports are required. The schedule will include all recurring and expected new requirements with cost estimates over \$25,000.

(1) When non-personal services estimated to exceed \$2,500 are required, a DA Form 2496, Disposition Form, must be sent to the DOC, listing job titles of employees considered necessary to perform the services. Such listing should clearly identify each job classification of service employee. The identification should correspond as closely as possible to the General Schedule Classification or Wage Board Classification. Furnish a realistic estimate of the respective number of employees which are required for each job title, as well as the total number of employees. The DF must be sent in sufficient time to permit the DOC to obtain hourly wage pay data from the Civilian Personnel Office before forwarding a request for wage determination to the Department of Labor. The request to the

Department of Labor must be sent not later than 60 days before issuance of the solicitation. The above information is required on all services over \$2,500, except for contracts for consultants, professional services, utilities, and rentals.

(2) Contracts for operation and maintenance of continuing services (such as rentals, maintenance of equipment, etc.) can be contracted subject to availability of funds. Requests for these services shall be submitted 145 days prior to the start of the new date of performance under the contract.

(3) Some contracts for recurring requirements include options for the government to extend/renew the period of performance. Requiring activities will notify the Contracting Officer in writing NLT 145 days prior to the start of a new performance period whether or not exercising of the option is desired.

d. Installation Acquisition Planning Board (IAPB)

(1) An Installation Acquisition Planning Board (IAPB) is established at Fort Sam Houston to implement the AAP System. Board membership is comprised of the Deputy Garrison Commander, as chairman, and representatives of the following organizations: Director of Contracting, as alternate chairman; Director of Personnel and Community Activities; Director of Resources Management; Director of Logistics; Director of Engineering and Housing; Director of Plans, Training, Mobilization, and Security; Director of Information Management; Director of Reserve Component Support, Staff Judge Advocate, and the respective chiefs of program and budget. Additional permanent members are representatives from Fifth U.S. Army, HSC, AHS, BAMC, and 90th USARCOM. Other activities may be requested to attend specific meetings should the need arise. Scheduled meeting dates will be publicized through notices in the bulletins. A working group composed of action officers from the above organizations and chaired by the Director of Contracting will meet as necessary to update and monitor the AAP.

(2) Board meeting agendas shall include a review of requirements discussed at the previous meeting for status and adherence to the milestones established. In addition, milestones for all requirements scheduled for the upcoming quarter will be reviewed during these meetings. All program directors will prepare AAP charts by filling in milestones for their tasks for each requirement (both annual recurring and one-time) scheduled for the next quarter and update all charts from the previous board meeting. Program directors should be prepared to discuss all aspects of each requirement, to include funding status, Statement of Work preparation, and proposed commencement or delivery date.

3-2. LEAD TIMES AND CUT-OFF DATES.

a. To ensure that contracts entered into and purchases made are beneficial to the government, it is imperative that acquisition requirements be submitted to the DOC on a timely basis. Sufficient lead time must be allowed to permit the contract specialists to develop and issue solicitations, evaluate bids or proposals, make determinations of responsibility, secure required reviews and appraisals and award the contracts. Further, each solicitation must provide prospective contractors adequate time to prepare and submit responses to solicitation. This lead-time is referred to as Contracting Administrative Lead Time (CALT).

b. Contracting Administrative Lead Time (CALT) begins when a complete and valid procurement package (funded Purchase Request with acceptable Statement of Work/Specifications) is received by the DOC and ends when the acquisition is awarded and distribution of the contract/purchase/delivery order is completed. CALT goals in calendar days for processing actions are shown below.

TYPE OF ACQUISITION	\$0-\$2,500	\$2,501-\$10,000	\$10,001-\$25,000	\$25,001-\$100,000
Supplies	15 days*	30 days*	75 days	75 days
Services Except CA	15 days	85 days	115 days	115 days
ADPE**	60 days	90 days	120 days	120 days

TYPE OF ACQUISITION	OVER \$100,000
Supplies	125 days
Services Except CA	145 days
ADPE**	150 days
Commercial Activities	Single Function 300 days Multiple Function 515 days

*Note: For supplies with Priority 02 through 06, 7 days is the CALT.

**CALT goal for issuing delivery orders for ADPE against intra-departmental contracts is 30 days.

3-3. EMERGENCY/PRIORITY REQUIREMENTS.

a. Emergency Requirements. During duty hours, requesting activities should contact the DOC by telephone upon initiating requests for emergency acquisitions.

b. After Duty Hours. Emergency situations which may arise during nonduty hours which require contractual action will be referred to the USAG FSH staff duty officer (SDO). The SDO will notify the appropriate DOC personnel from the on-call roster.

c. High Priority Justification. All requests for high priority acquisitions will be assigned a Uniform Material Movement Issue Priority System (UMMIPS) rating of 03 (emergency) or 06 (priority) by the unit property book officer. Priority request must be supported by the justifications and approvals which are listed in section II, table 2-1, and paragraphs 2-6, 2-7, and 3-8 of FSH Regulation 700-1.

d. Approval of High Priority Purchase Requests. Each high priority must be approved by the Director, DOC (or designated representative) before the request can be accepted for processing through DOC on a priority basis. Those requests which are not fully supported and justified as required by paragraph 3-4c, above, will not be accepted for priority purchasing ahead of other customers' requirements. Priority purchase requests will not be used in place of prior planning.

The proponent agency of this regulation is the Directorate of Contracting. Users are invited to send comments and suggested improvements on DA Form 2028, Recommended Changes to Publications and Blank Forms, to the Commander, U.S. Army Garrison, ATTN: AFZG-DOC, Fort Sam Houston, Texas 78234-5000.

FOR THE COMMANDER:



GEORGE A. FINLEY
Director of Information
Management

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Director of Information
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APPENDIX A

REFERENCES

FAR	Federal Acquisition Regulation
DFARS	DOD Federal Acquisition Regulation Supplement
AFARS	Army Federal Acquisition Regulation Supplement
AR 37-107	Finance and Accounting for Installations Processing and Payment of Commercial Accounts
AR 215-1	Administration of Army Morale, Welfare and Recreation Activities and Non-Appropriated Fund Instrumentalities
AR 600-50	Standards of Conduct
AR 725-50	Regulation and Issue of Supplies and Equipment Requisition, Request and Issue System
DA PAM 215-4	Non-Appropriate Fund Small Purchase
DA PAM 715-15	Service Contract Administration
FORSCOM Reg 715-1	FORSCOM Acquisition Instructions (FAI)

APPENDIX B

Activities authorized to submit requests for purchase support.

a. Supported activities will be responsible for providing purchase descriptions, local purchase authority, funds availability, and technical assistance to evaluate responses and assist in administering the contract. Supported activities may be assigned the responsibility for performing specific post-award functions, such as testing, inspections and acceptance.

b. Activities authorized to submit purchase requests.

All HQ USAG FSH Activities, plus

U.S. ARMY TENANTS

U.S. Army Health Services Command	Mobilization and
Academy of Health Sciences, U.S. Army	Deployment
Brooke Army Medical Center (BAMC)	Planning Course
Patient Administration and	Fifth U.S. Army
Biostatistical Activity	90th U.S. ARCOM
U.S. Army Area Dental Laboratory	Readiness Group,
Health Care Systems Support Activity	Fort Sam Houston
U.S. Army Health Care Studies and	546th EOD
Clinical Investigation	137th EOD
U.S. Army Optical Fabrication Lab	Midwest Commissary
(projected)	Region
U.S. Army Veterinary Service	FSH Commissary
(projected)	Store
U.S. Army Institute of Surgical Research	U.S. Army Liaison,
Army Medical Department Personnel	U.S. Army Recruit-
Support Activity, San Antonio	ing Command
Fort Sam Houston Field Office,	416th Engineer Cmd
902d Military Intelligence Group	
Houston, Texas	
U.S. Army 5th Recruiting Brigade	
(SW) & San Antonio and Houston	
Battalions & Liaison Office	
Fort Sam Houston Field Office, U.S.	
Army Criminal Investigation Cmd	
Fort Worth District Corps of	
Engineers, FSH Projects Office	
U.S. Army Physical Evaluation Board	
Area TMDE Support Team (ATST)	
Trial Defense Service	

APPENDIX B

U.S. ARMY SATELLITE ACTIVITIES

Military Entrance Processing Station,
San Antonio, Texas
Military Entrance Processing Station,
Houston, Texas
District Recruiting Cmd, San Antonio, Texas
District Recruiting Cmd, Houston, Texas
Fort Worth District Engineer,
San Antonio, Texas
U.S. Army Audit Agency, San Antonio, Texas
U.S. Army San Antonio, Field Station
Kelly AFB
Detachment C, 513th MI Bn, Bergstrom AFB
USAR AMEDD Personnel Support Activity,
San Antonio, Texas
USAR AMEDD Personnel Support Activity,
Houston, Texas
U.S. Army Training Detachment (Fort
McClellan), Lackland AFB (Dog Training School)
75th U.S. Army Maneuver Area Command
U.S. Army Junior/Senior ROTC Units
(South Texas)
694th Maintenance Bn, San Antonio, Texas
807th Med Bde
420th Engr Bde

U.S. NAVY TENANTS

U.S. Navy Reserve Training Center
U.S. Navy Personnel Support Activity
Naval School of Health Sciences (AHS)

OTHER DOD TENANTS

Uniformed Service University of
Health Sciences (AHS)
Defense Investigation Service
Defense Reutilization & Marketing
Office

APPENDIX C
ADVANCE ACQUISITION PLANNING CHART
SERVICES/EQUIPMENT/SUPPLIES

REQUIRING ACTIVITY: _____

PROJECT REQUIREMENT/TITLE: _____

1. Recurring Annual Requirement _____

Current Contract Number _____

Contract Period _____ Thru _____

Option _____ Period Remaining _____

2. New Requirement/Start

Contract Period Required _____

3. Planning and Preparation of Acquisition Package

EST. DATE OF COMPLETION
Planned Date Actual Date

a. Review of previously used
Statement of Work (SOW) to ensure SOW
meets current needs

or

b. Preparation of SOW

or

c. Preparation of Specifications,
plans, drawings (not to be copies from
vendor furnished brochures).

d. Preparation of Independent
Government Cost Estimate.

e. Approvals/Authorizations
Received

f. SPECIAL Contract Considerations
(i.e., Security Clearances, service
performed during certain hours performed
in occupied areas, estimated contractor
start up time; any Government-furnished
property)

g. If Service Contract, Employee Skill Classification
required:

<u>Employee Class</u>	<u>Monetary Wage-Fringe Benefits</u>

h. Estimated Date of Forwarding to Directorate of
Contracting:

--

4. Upon receipt, the Directorate of Contracting will prepare and forward to your activity milestones of the contracting phase of the complete acquisition package.

COORDINATION:

PROGRAM/ACTIVITY DIRECTOR	<u>SIGNATURE</u>	<u>DATE</u>	<u>TEL. NUMBER</u>
PROGRAM/ACTIVITY DIRECTOR	<u>SIGNATURE</u>	<u>DATE</u>	<u>TEL. NUMBER</u>
CONTRACTING OFFICER	<u>SIGNATURE</u>	<u>DATE</u>	<u>TEL. NUMBER</u>
CONTRACT SPECIALIST	<u>SIGNATURE</u>	<u>DATE</u>	<u>TEL. NUMBER</u>